

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:08CR194
)	
v.)	
)	
KASHAUN L. LOCKETT,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on defendant Kashaun L. Lockett's ("Lockett") motion for appointment of counsel for the purposes of litigating a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) (Filing No. [142](#)). Lockett's 2009 sentence was a downward departure from the applicable guideline range to the mandatory minimums applicable at that time.

A Court may reduce a sentence under § 3582(c)(2) where the defendant's sentence was "based on a sentencing range that has subsequently been lowered." A reduction in sentence is not authorized under the Guidelines where "the amendment does not have the effect of lowering the defendant's applicable guideline range because of the operation of another guideline or statutory provision (e.g., a statutory mandatory minimum term of imprisonment)." *Commentary* to U.S.S.G. § 1B1.10; *see also United States v. Johnson*, 517 F.3d 1020, 1024 (8th Cir. 2008) (holding that amendments to the Guidelines do not operate to reduce a sentence where sentencing was based on a mandatory minimum).

Lockett's current sentence is based on the applicable statutory minimum. Therefore, the recent changes in the Guidelines do not operate to further reduce his sentence. Accordingly,

IT IS ORDERED that defendant Lockett's motion for appointment of counsel is denied.

DATED this 5th day of September, 2012.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court